

MINUTES

MONTANA SENATE 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chairman Gary L. Perry, on February 19, 2009 at
8:00 A.M., in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Gary L. Perry, Chairman (R)
Sen. Jim Shockley, Vice Chairman (R)
Sen. Aubyn Curtiss (R)
Sen. John Esp (R)
Sen. Greg Hinkle (R)
Sen. Cliff Larsen (D)
Sen. Jesse Laslovich (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Terry Murphy (R)

Members Excused: None

Members Absent: Sen. Larry Jent (D)
Sen. Carol C. Juneau (D)

Staff Present: Valencia Lane, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 402, SB 406, SB 442, SB 464,
2/11/2009

Executive Action: SB 288-Do Pass As Amended, SB 349-
Do Pass As Amended, SB 298-Tabled,
SB 334-Tabled, SB 374-Do Pass-
Motion Withdrawn, Action Postponed,
SB 379-Do Pass-Motion Failed on Tie
Vote

EXECUTIVE ACTION ON SB 288

00:01:01 **Motion:** Sen. Hinkle moved that **SB 288 DO PASS.**

Discussion:

00:01:34 Todd Everts, Legislative Services Division (LSD)

00:03:26 Sen. Hinkle

00:03:46 Mr. Everts

00:04:08 Valencia Lane, LSD

00:04:40 Sen. Hinkle moved that the **AMENDMENTS ADDED to SB 288 in PREVIOUS EXECUTIVE ACTION BE REMOVED.**

Discussion:

00:05:09 Sen. McGee

00:05:52 **Vote:** Motion that the **AMENDMENTS ADDED to SB 288 in PREVIOUS EXECUTIVE ACTION BE REMOVED** carried 7-5 by roll call vote with Sen. Jent, Sen. Juneau, Sen. Larsen, Sen. Laslovich, and Sen. Moss voting no. Sen. Jent, Sen. Juneau voted by proxy.

00:06:54 **Motion/Vote:** Sen. Hinkle moved that **SB 288 BE AMENDED.** Motion carried 7-5 by roll call vote with Sen. Jent, Sen. Juneau, Sen. Larsen, Sen. Laslovich, and Sen. Moss voting no. Sen. Jent, Sen. Juneau voted by proxy.

EXHIBIT(jus39a01)

00:07:55 **Motion:** Sen. Hinkle moved that **SB 288 DO PASS AS AMENDED.**

Discussion:

00:08:05 Sen. Laslovich

00:08:18 Sen. Hinkle

00:09:02 Sen. Shockley

00:10:10 **Vote:** Motion that **SB 288 DO PASS AS AMENDED** carried 7-5 by roll call vote with Sen. Jent, Sen. Juneau, Sen. Larsen, Sen. Laslovich, and Sen. Moss voting no. Sen. Jent, Sen. Juneau voted by proxy.

EXECUTIVE ACTION ON SB 298

00:12:26 **Motion:** Sen. Laslovich moved that **SB 298 DO PASS.**

Discussion:

00:12:33 Sen. Shockley

00:13:28 Sen. Laslovich

00:16:39 **Motion:** Sen. Laslovich moved that **SB 298 BE AMENDED.**
EXHIBIT(jus39a02)

Discussion:

00:17:13 Sen. Shockley

00:17:39 Sen. Murphy

00:20:08 Sen. Laslovich

00:20:45 **Vote:** Motion that **SB 298 BE AMENDED** failed 6-6 by roll call vote with Sen. Jent, Sen. Juneau, Sen. Larsen, Sen. Laslovich, Sen. Moss, and Sen. Perry voting aye. Sen. Jent, Sen. Juneau voted by proxy.

00:21:31 **Motion/Vote:** Sen. Murphy moved that **SB 298 BE TABLED.** Motion carried 7-5 by roll call vote with Sen. Jent, Sen. Juneau, Sen. Larsen, Sen. Laslovich, and Sen. Moss voting no. Sen. Jent, Sen. Juneau voted by proxy.

00:22:29 Sen. Laslovich

EXECUTIVE ACTION ON SB 327

00:23:29 Sen. McGee

(No action taken.)

EXECUTIVE ACTION ON SB 334

00:24:22 **Motion:** Sen. Shockley moved that **SB 334 DO PASS.**

Discussion:

00:24:41 Sen. Shockley

00:25:08 Sen. Laslovich

00:26:06 Sen. Shockley

00:27:04 **Vote:** Motion that **SB 334 DO PASS** failed 6-6 by roll call vote with Sen. McGee, Sen. Curtiss, Sen. Murphy, Sen. Hinkle, Sen. Shockley, and Sen. Perry voting aye. Sen. Jent, Sen. Juneau voted by proxy.

00:27:10 **Motion/Vote:** Sen. McGee moved that **SB 334 BE TABLED**. Motion carried 9-3 by roll call vote with Sen. Hinkle, Sen. Murphy, and Sen. Shockley voting no. Sen. Jent, Sen. Juneau voted by proxy.

EXECUTIVE ACTION ON SB 349

00:28:37 **Motion:** Sen. McGee moved that **SB 349 DO PASS**.

Discussion:

00:30:27 Sen. Esp
00:31:20 Sen. McGee

00:31:45 **Motion/Vote:** Sen. Larsen moved that **SB 349 BE AMENDED**. Motion carried unanimously by voice vote. Sen. Jent, Sen. Juneau voted by proxy.

EXHIBIT (jus39a03)

00:35:16 **Motion:** Sen. Shockley moved that **SB 349 DO PASS AS AMENDED**.

Discussion:

00:35:29 Sen. Moss
00:35:59 Sen. Larsen
00:36:35 Sen. Esp

00:37:03 **Motion/Vote:** Sen. Shockley moved that **SB 349 DO PASS AS AMENDED**. Motion carried 10-2 by roll call vote with Sen. Jent and Sen. Juneau voting no. Sen. Jent, Sen. Juneau voted by proxy.

EXECUTIVE ACTION ON SB 374

00:38:15 **Motion:** Sen. McGee moved that **SB 374 DO PASS**.

00:38:25 **Motion:** Sen. Hinkle moved that **SB 374 BE AMENDED with a CONCEPTUAL AMENDMENT TO STRIKE THE LANGUAGE FROM PAGE 1, LINE 27 after "if the court" through PAGE TWO, LINE 30**.

Discussion:

00:39:29 Sen. Shockley

00:39:33 Sen. Perry

00:40:15 Sen. Hinkle **WITHDREW MOTION TO AMEND SB 374.**

00:40:29 Sen. McGee **WITHDREW MOTION DO PASS SB 374.**

(No action taken.)

EXECUTIVE ACTION ON SB 379

00:40:55 **Motion:** Sen. McGee moved that **SB 379 DO PASS.**

Discussion:

00:41:15 Sen. Laslovich

00:41:41 Sen. Murphy

00:42:28 Sen. Shockley

00:43:22 Sen. Laslovich

00:43:34 Sen. Murphy

00:44:21 Sen. Shockley

00:44:31 Sen. Moss

(Sen. Juneau entered room.)

00:45:39 Sen. Perry

00:45:56 Sen. Hinkle

00:46:42 Sen. Esp

00:47:24 Sen. McGee

00:48:44 Sen. Perry

00:49:16 Sen. McGee

00:49:56 **Vote:** Motion that **SB 379 DO PASS** failed 6-6 by roll call vote with Sen. Curtiss, Sen. Hinkle, Sen. McGee, Sen. Murphy, Sen. Perry, and Sen. Shockley voting aye. Sen. Jent voted by proxy.

00:50:24 break

HEARING ON SB 402

Opening Statement by Sponsor:

01:03:11 Sen. Jim Peterson (R), SD 15, opened the hearing on SB 402, Clarify property rights for which just compensation is due when taken.

Proponents' Testimony:

01:11:12 John Bloomquist, Montana Stockgrowers Association
 01:14:09 Ken Mesaros, rancher
 01:18:38 Mark Staples, Montana Tavern Association
 01:19:58 Chuck Denowhe, United Property Owners of Montana
 01:21:22 Jon Bennion, Montana Chamber of Commerce
 01:21:44 Vanessa Clark, Helena Chamber of Commerce
 01:22:07 Cary Hegreberg, Montana Contractors Association
 01:22:48 Dustin Stewart, Montana Building Industry Association
 01:23:04 Rick Jore, self, Ronan
 01:24:07 Joe Roberts, Montana Association of Realtors
 01:24:29 Jean Johnson, Montana Outfitters and Guides Association

Opponents' Testimony:

01:25:03 Gene Allison, Attorney, Business Standards Division, Department of Labor
 01:28:42 George Golie, Montana Wildlife Federation
 01:32:52 Bob Lane, Chief Legal Council, Department of Fish, Wildlife and Parks, State of Montana (FWP)

EXHIBIT(jus39a04)

01:34:55 Tim Reardon, Chief Legal Council, Department of Transportation, State of Montana
 01:38:30 Kelly Casillas, Department of Commerce, State of Montana
 01:40:59 Candace West, Chief Legal Council, Department of Natural Resources and Conservation (DNRC)
 01:43:39 John Mudd, Executive Council, State Auditors Office, State of Montana
 01:46:01 Harold Blattie, Executive Director, Montana Association of Counties (MACo)
 01:47:34 Bob Worthington, Montana Municipal Insurance Authority (MMIA)
 01:48:22 John MacDonald, City of Missoula
 01:48:52 Ann Gilkey, Office of Public Instruction, State of Montana
 01:49:22 Tim Davis, Montana Smart Growth Coalition

Informational Testimony:

none

Questions from Committee Members and Responses:

01:50:04 Sen. Hinkle
01:50:36 Mr. Allison
01:53:10 Sen. Moss
01:54:05 Mr. Reardon
01:55:09 Sen. Esp
01:55:38 Mr. Davis
01:56:20 Sen. Esp
01:56:43 Sen. Peterson
01:58:52 Sen. Shockley
01:59:01 Sen. Peterson

Closing by Sponsor:

02:00:47 Sen. Peterson

02:03:16 break

HEARING ON SB 406

Opening Statement by Sponsor:

02:13:59 Sen. Dan McGee (R), SD 29, opened the hearing on SB
406, Constitutionally define person.

[EXHIBIT\(jus39a05\)](#)

Proponents' Testimony:

02:31:56 Dr. Annie Bukacek, Physician, Montana ProLife Coalition

[EXHIBIT\(jus39a06\)](#)

[EXHIBIT\(jus39a07\)](#)

02:37:08 Dr. William D. Wise, retired, Physician

02:39:10 Harris Himes, Pastor, Big Sky Christian Center; also
for Eagle Forum

02:42:43 Rick Jore, self; Montana ProLife Coalition

[EXHIBIT\(jus39a08\)](#)

02:44:26 R.J. Christensen, self

02:47:30 Jonene Bernhardt, self

[EXHIBIT\(jus39a09\)](#)

02:48:54 Suzanne Brooks, Montana ProLife Coalition

[EXHIBIT\(jus39a10\)](#)

02:50:49 Matt Zemeke, self

02:50:59 Lee Ann Bear, self

[EXHIBIT\(jus39a11\)](#)

02:51:38 Cheryl Roller, self

02:52:28 Beth Ries, self, Montana Prolife Coalition

[EXHIBIT\(jus39a12\)](#)

02:53:06 Gayle Asbury, self

[EXHIBIT\(jus39a13\)](#)

02:53:19 Kathleen Sipes, self,

02:53:35 Jill Guthrie, self

02:53:40 Tim Schroeder, self

02:53:52 Caleb Hinkle, self

02:54:01 Vivian McNeme, self

[EXHIBIT\(jus39a14\)](#)

02:54:22 Cheri Pross, self

02:54:39 Joanne Kauzlarich, self

02:54:51 Adriana McNeme

02:55:02 Becky Stockton, self

02:55:21 Rita Senkler, self

02:55:38 Tim Bernard, self

[EXHIBIT\(jus39a15\)](#)

02:55:56 Roland Horst, self

**Distributed to Committee Members from Proponents regarding SB
406:**

[EXHIBIT\(jus39a16\)](#)

[EXHIBIT\(jus39a17\)](#)

[EXHIBIT\(jus39a18\)](#)

[EXHIBIT\(jus39a19\)](#)

[EXHIBIT\(jus39a20\)](#)

Opponents' Testimony:

02:56:27 John Arrigo, self

02:59:22 Niki Zupanic, ACLU

03:04:56 Anita Roessmann, Disability Rights of Montana

03:10:40 Kelsen Young, Executive Director, Montana Coalition
Against Domestic and Sexual Violence

[EXHIBIT\(jus39a21\)](#)

03:12:17 Angie Wagenhals, NARAL, Pro Choice Montana

03:13:16 Stacey Anderson, Public Affairs Director, Planned
Parenthood of Montana

03:14:27 Jamee Greer, Montana Human Rights Network

Informational Testimony:

none

Questions from Committee Members and Responses:

03:15:15 Sen. Hinkle
03:15:28 Ms. Young
03:16:40 Sen. Hinkle
03:16:48 Ms. Anderson
03:18:39 Sen. Hinkle
03:18:50 Dr. Bukacek
03:20:41 Sen. Hinkle
03:21:01 Ms. Wagenhals
03:21:36 Sen. Moss
03:22:20 Ms. Roessmann
03:24:21 Sen. Moss
03:24:46 Ms. Wagenhals
03:24:59 Sen. Juneau
03:25:50 Ms, Roessmann
03:27:56 Sen. Hinkle
03:28:29 Mr. Jore
03:28:55 Sen. Perry
03:29:16 Ms. Zupanic

Closing by Sponsor:

03:33:23 Sen. McGee

HEARING ON SB 442

Opening Statement by Sponsor:

03:39:55 Sen. Jesse Laslovich (D), SD 43, opened the hearing on
SB 442, Create shaken baby syndrome education program.

[EXHIBIT\(jus39a22\)](#)

Proponents' Testimony:

03:41:01 Daylyn Strubule, Registered Pediatric, Emergency/Trauma
Nurse
03:46:12 Don Judge, Montana Nurses Association
[EXHIBIT\(jus39a23\)](#)
03:47:24 Kelsen Young, Executive Director, Montana Coalition
Against Domestic and Sexual Violence

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

03:48:43 Sen. Moss

03:49:03 Sen. Laslovich

Closing by Sponsor:

03:49:12 Sen. Laslovich

[EXHIBIT\(jus39a24\)](#)

HEARING ON SB 464

Opening Statement by Sponsor:

03:50:49 Sen. Jesse Laslovich (D), SD 43, opened the hearing on SB 464, Prohibiting covenants not to sue in remedial actions on listed sites.

[EXHIBIT\(jus39a25\)](#)

Proponents' Testimony:

03:52:25 John Fitzpatrick, self

[EXHIBIT\(jus39a26\)](#)

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

None

Closing by Sponsor:

03:55:45 Sen. Laslovich

Received after the hearing on SB 406:

[EXHIBIT\(jus39a27\)](#)

ADJOURNMENT

Adjournment: 12:02- P.M.

Pam Schindler, Secretary

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Additional Documents:

EXHIBIT ([jus39aad.pdf](#))